

House Bill 862

By: Representative Levitas of the 82nd

A BILL TO BE ENTITLED
AN ACT

To amend Article 4 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to accusations, so as to allow trial upon accusation in all cases except for serious violent felonies or any felony offense requiring a trial upon an indictment pursuant to express provisions of the laws or constitutions of this state or of the United States; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 4 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to accusations, is amended by revising Code Section 17-7-70.1, relating to trial upon accusation in certain felony and misdemeanor cases, as follows:

"17-7-70.1.

(a)(1) Except for a serious violent felony, as defined in Code Section 17-10-6.1, or any felony offense requiring a trial upon an indictment pursuant to express provisions of the laws or constitutions of this state or of the United States, in ~~in~~ felony cases involving violations of the following:

~~(A) Code Sections 16-8-2, 16-8-14, 16-8-18, 16-9-1, 16-9-2, 16-9-20, 16-9-31, 16-9-33, 16-9-37, 16-10-52, and 40-5-58;~~

~~(B) Article 1 of Chapter 8 of Title 16, relating to theft;~~

~~(C) Chapter 9 of Title 16, relating to forgery and fraudulent practices;~~

~~(D) Article 3 of Chapter 10 of Title 16, relating to escape and other offenses related to confinement; or~~

~~(E) Code Section 16-11-131, relating to possession of a firearm by a convicted felon or first offender probationer;~~

in which defendants have either been bound over to the superior court based on a finding of probable cause pursuant to a commitment hearing under Article 2 of this chapter or

1 have expressly or by operation of law waived a commitment hearing, the ~~district~~
2 prosecuting attorney shall have authority to prefer accusations; and the defendants shall
3 be tried on such accusations according to the same rules of substantive and procedural
4 laws relating to defendants who have been indicted by a grand jury.

5 (2) All laws relating to rights and responsibilities attendant to indicted cases shall be
6 applicable to cases brought by accusations signed by the district attorney.

7 (3) The accusation need not be supported by an affidavit except in those cases in which
8 the defendant has not been previously arrested in conjunction with the transaction
9 charged in the accusation.

10 ~~(a.1) The provisions of subsection (a) of this Code section shall apply to violations of Code~~
11 ~~Section 16-13-30 whenever there has been a finding of probable cause pursuant to a~~
12 ~~commitment hearing under Article 2 of this chapter or the accused has waived either~~
13 ~~expressly or by operation of law the right to this hearing.~~

14 (b) Judges of the superior court may open their courts at any time without the presence of
15 either a grand jury or a trial jury to receive and act upon pleas of guilty or nolo contendere
16 in felony and misdemeanor cases. The judge of the superior court may try the issues in such
17 cases without a jury upon an indictment or upon an accusation filed by the ~~district~~
18 prosecuting attorney where the defendant has waived trial by jury.

19 (c) An accusation substantially complying with the form provided in subsections (d) and
20 (e) of Code Section 17-7-71 shall in all cases be sufficient.

21 (d) The ~~district~~ prosecuting attorney may not bring an accusation pursuant to this Code
22 section in those cases where the grand jury has heard evidence or conducted an
23 investigation or in which a no bill has been returned.

24 (e) Notwithstanding the above provisions, nothing in this Code section shall affect the
25 rights of police officers and public officials to appear before a grand jury as provided in
26 Code Sections 17-7-52, 45-11-4, and 45-15-11."

27 SECTION 2.

28 This Act shall become effective on July 1, 2007, and shall apply to all offenses committed
29 on or after that date.

30 SECTION 3.

31 All laws and parts of laws in conflict with this Act are repealed.